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November 30, 2015

The Honorable John Gleeson  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**BY ECF & U.S. MAIL**

**Re: *United States v. Mahdi Hashi*  
12 Cr. 661 (JG)**

Your Honor:

**Introduction**

This letter is submitted to supplement defendants' joint sentencing submission. Mr. Hashi is scheduled to be sentenced by this Court on December 18, 2015.

**Somalia & Mahdi Hashi's Childhood**

On August 18, 1989, during president and military dictator Siad Barre's reign of terror, Mahdi Hashi was born in the village of Mareray. From 1969 to 1990, Barre oversaw a campaign of widespread atrocities that decimated Somali civil society. In the 1980s, to quash separatist movements, Barre's Somali Armed Forces targeted civilians in the northwest, culminating in the bloody 1988 siege of the regional capital Hargeisa, which claimed 5,000 civilian lives.<sup>1</sup>

When Barre's regime finally collapsed in 1991, Somalia was plunged into a chaotic internal conflict from which it has never recovered. Indeed, in 1991, Somalia was described by the U.S. Office of Foreign Disaster Assistance as "the worst humanitarian disaster in the world."<sup>2</sup> It was around this time that Mahdi and his family, like millions of other Somali refugees, fled

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<sup>1</sup> Why Somalis Flee: Synthesis of Accounts of Conflict Experience in Northern Somalia by Somali Refugees, Displaced Persons and Others [PDF] for Bureau of Refugee Programs, United States Department of State, August 1989.

<sup>2</sup> Somalia No Mercy in Mogadishu: The Human Cost of the Conflict & The Struggle for Relief. [PDF] Africa Watch and Physicians for Human Rights, March 26, 1992, accessed August 10, 2009.

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Somalia and embarked on a 4-year journey, encompassing tens of thousands of miles. Their arduous trek, took the family through Somalia, Djibouti, Swaziland (autonomous region in South Africa), Syria, Turkey, Georgia, Russia, several Baltic countries, Germany, Holland and, finally, the United Kingdom.

During the journey, Mr. Hashi's sister, Fatima was born in Swaziland, and his brother Khador was born in Holland. The family was frequently forced to pay smugglers to take them across multiple borders, and, in some instances, they had to flee or avoid armed border patrols. In fact, Mahdi's earliest life memory is of his family being chased by armed border patrols while they were passengers in the back of a smuggler's pick-up truck.

The Hashi Family ultimately settled in a small London-based community of Somali Refugees in or about 1994. These early experiences would form the basis of Mr. Hashi's relationship to the world and subsequent outlook on life. Roughly ten years later, on April 16, 2004, at the age of 14, Mr. Hashi was naturalized as a British citizen.

Little has changed since Mr. Hashi's family escaped Somalia. In 1992, the New York Times wrote: "Instead of fighting with traditional spears and shields, the clans have more recently conducted their feuds with mortars and machine guns." In 2006, an Islamist insurgency threatened to topple the Transitional Federal Government (TFG). In response, Ethiopia staged a large-scale military intervention. Although many have accused the Islamist insurgency, the TFG, and Ethiopia's counterinsurgency of carrying out widespread human rights abuses against civilians, evidence of the full scale and scope of these violations has been slow to emerge.

By 2009, some 3.2 million Somalis were dependent on humanitarian assistance for their survival.<sup>3</sup> At the same time, piracy along Somalia's coasts had become a source of international tension, capturing the media's attention and even obscuring the ongoing humanitarian catastrophe. Foreign Policy Magazine called Somalia "the most dangerous place in the world."<sup>4</sup>

By 2010, about 1.5 million people had been internally displaced within Somalia, and more than half a million Somali refugees had sought shelter in neighboring countries.<sup>5 6</sup> Adding

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<sup>3</sup> Somalia: Amnesty International calls for accountability and safeguards on arms transfers to Somalia's Transitional Federal Government. Amnesty International Media Briefing. August 11, 2009. AI index: AFR 52/006/2009, accessed August 10, 2009.

<sup>4</sup> "The Most Dangerous Place in the World", Foreign Policy, Jeffrey Gettleman, March/April 2009, accessed August 10, 2009.

<sup>5</sup> "Somalia" Amnesty International's Annual Report 2011.

<sup>6</sup> "Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government, and AMISON in Somalia," Human Rights Watch, April 2010.

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to the crisis, Somalia was struck by famine in 2011 and early 2012. At its height, the famine raised the number of people entirely dependent on humanitarian assistance in Somalia to 4 million.<sup>7</sup>

### **Life in the United Kingdom**

Meanwhile, growing up as a youth in the UK was difficult for Mr. Hashi and other young Somali refugees, having no dominant identity. They were neither British nor Somali. Many, including Mahdi, spoke a combination of English and Somali, reinforcing a language and cultural barrier between young Somali refugees and mainstream British society. It also created a boundary between these young refugees and their own families, as they could not fully communicate with their families or absorb their culture. These young people would form their own sub-culture within British society, a society in which Mahdi found minimal comfort.

Removed from the land of their birth, and never assimilating into mainstream British society, Somali youth would form street gangs that acted as surrogate families and environments of comfort for these disaffected youth. Although Mahdi never joined these gangs, this was the environment where he felt most comfortable. Nevertheless, as Mohamed Nur, the associate director of Kentish Town Community Organisation writes in **Defendant's Exhibit A**, attached hereto:

[Mahdi] became [the organization's] biggest tool in bringing young men off the streets and back into education or employment. These young men respected Mahdi so much that some of them today hold post graduate degrees in various fields due to Mahdi's intervention.

As Mahdi got older, he felt an increasing sense of displacement. His nostalgia and longing for his homeland and culture increased. This feeling was heightened by stories of complete lawlessness in Somalia – carjackings, extortion and rape. Mahdi and others in the small refugee community felt incredibly guilty and powerless while listening to reports from BBC Somalia and stories from family members and recent immigrants to the community about the brutality perpetrated in Somalia. Since it was clear that he could not return to Somalia, Mahdi felt trapped. He wanted to see his country, smell the air and help his people. He wanted to be able to come back to his London community to report what he witnessed in Somalia.

Mr. Hashi finally got the opportunity to return to Somalia as an adult when he traveled there with his aunt Fatuma Hashi Farah to visit his family and the country that he fled as a child. **See Defendant's Exhibit B, Letter from Fatuma Hashi Farah.** In her letter to this Court, she describes Mr. Hashi as a thoughtful, compassionate, kind and intelligent young man, who “could

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<sup>7</sup> “UN says Somali Famine Over, but warns action needed to forestall new crisis,” UN News Service, Feb. 3, 2012

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achieve anything he sets his heart on.”

Similarly, in his letter to this Court, Mr. Hashi’s cousin Ismail Artan writes about Mahdi’s “sense of community [that] led him to pursue a career in youth working and a role model in the local community, [where] he inspired and motivated many young people who looked up to his upright behaviour.” **See Defendant’s Exhibit C.** Mr. Artan, and the remainder of the letters submitted on Mr. Hashi’s behalf [**Defendant’s Exhibit D**], paint a picture of Mahdi as a kind and generous person, with a great deal of integrity and a strong sense of purpose.

### **Mahdi Hashi & Islam**

The inextricably intertwined nexus of history, religion and nationalism framed the minds and attitudes of many Somali Refugees, including Mahdi. When Mahdi was 16 years old, he traveled with his mother to Egypt. It was during this trip, that he became more involved with Islam. Islam, the predominant religion in Somalia, was indelibly tied to one’s identity as a Somali. For Mahdi, his increased interest in Islam was a step toward claiming that identity. The rise of the Islamic Courts Union (ICU) and al-Shabaab represented order and stability, as well as an opportunity to visit Somalia and a step closer toward claiming his Somali identity. For Mahdi Hashi, an attack on the ICU and al-Shabaab, was an attack against that order and stability. Mahdi was determined to reclaim his Somali identity, to render aid to the Somali people and to protect something that he had never known Somalia to be – his home.

In its Presentence Investigation Report (PSR), United States Probation (Probation) and the government go to great lengths to underscore Mr. Hashi’s attempts to join al-Shabaab and his association with Bilal Berjawi and Mohamed Sakr while living in London. **PSR ¶ 29.** Both Berjawi and Sakr had been the subject of extensive surveillance by British intelligence, with the security services concerned they were involved in terrorist activities. Once in Somalia, the two reportedly became involved with al-Shabaab. Mr Berjawi was said to have risen to a senior position in the organization, with Mr Sakr his “right-hand man”. Through his fleeting association with Berjawi and Sakr, the government attempts to portray Mr. Hashi as a blood-thirsty terrorist, with an unwavering desire to kill. However, Mahdi’s relationship to these two figures was not as simple as this portrayal.<sup>8</sup>

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<sup>8</sup> Alex Perry, a foreign correspondent and journalist for Time and Newsweek, and author of *The Rift: A New Africa Breaks Free*, has described the relationship between recruiters like Berjawi and Sakr, and young, impressionable and vulnerable men like Mahdi. Both were senior members of al-Shabaab, who moved like predators seeking new recruits. They looked for young, vulnerable men, confused about their sexuality, abused drugs, and came from broken homes, as well as myriad other issues. Typically, the individuals they preyed upon felt excluded and marginalized, and were the quickest to turn and seize a path toward jihad. The young men they found were immature men, who could benefit from added years of the social and academic experience of school. These types were generally not good fighters, but made good “cannon

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When Mahdi met Berjawi and Sakr, he was a recent high school dropout, who was smoking marijuana daily, coping with an identity crisis and living in a single parent home. His interest in Islam and Somalia was peaking and he was their ideal recruit. Although a member of al-Shabaab, Mahdi never participated in any battles or skirmishes; he never assumed any significant leadership role, and; he did not lead others or perpetrate any acts of violence on al-Shabaab's behalf.

Indeed, in his Rule 15 deposition in February 2015, Hassan Jarso Kotola, a Kenyan born foreign fighter and leader of al-Shabaab's "Troublemakers" combat unit who fought in numerous battles and was a member of al-Shabaab for several years, testified about observing Mr. Hashi in Somalia on one occasion, for approximately 20 minutes. During this brief encounter, Jarso testified that he merely observed Mr. Hashi discussing a recent dream with another alleged member of al-Shabaab.

Moreover, in his Rule 15 deposition that spanned almost two full days, Mugisha Mahmoud, an admitted member of al-Shabaab who participated in the July 11, 2010, attacks in Kampala, Uganda that killed more than seventy people, trained in al-Shabaab camps with numerous foreign fighters and fought in several battles in Somalia, made no mention of Mr. Hashi. While Mahmoud provided information about the interworkings of al-Shabaab, its foreign fighter network, its use of suicide bombers, and the identity of various key members, he said nothing about Mr. Hashi. He never claimed that Mr. Hashi was a key member, that he attended a training camp, that he was observed with a weapon or that he was on or near the "front line" in Mogadishu or elsewhere.

#### **Mahdi Hashi's Disenchantment with al-Shabaab**

Within a few years, as Mahdi began to mature, he realized that his quest to find his identity and his love of Somalia, in many ways conflicted with his membership in al-Shabaab. He began to find in al-Shabaab, many of the same qualities – corruption, misappropriation, abuse - that he detested in the warlords, the Transitional Federal Government (TFG) and the pre-I.C.U. and al-Shabaab era.

His disillusionment with al-Shabaab soon became apparent and, in early 2012, after the deaths of Berjawi and Sakr, purportedly by U.S. drone strikes, Mahdi was arrested by al-Shabaab's intelligence service and imprisoned as a spy in an al-Shabaab jail, where he was held under harsh conditions for approximately three months. Although he was never given the reason for his arrest, Mr. Hashi later learned that he was suspected of being involved in the drone strikes that killed Berjawi and Sakr.

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For three months, Mahdi was detained in complete darkness and was fed twice daily. He was never spoken to by his captors and was never provided a reason for his arrest. On or about June 1, 2012, he was “thrown out in Marka.” His imprisonment left him malnourished, sick and frail. Mahdi believes that he was released so that he could be monitored and surveilled by al-Shabaab. Mahdi Hashi’s decision to leave al-Shabaab was sealed.

He remained in Marka for a month to recuperate and to regain his strength. It was during this time when, on June 15, 2012, the United Kingdom’s Border Agency issued an order depriving Mr. Hashi of his British citizenship. **See Defendant’s Exhibit E.** In a telephone call with his mother in early July 2012, Mr. Hashi learned for the first time that his British citizenship had been revoked.

On August 5, 2012, while fleeing Somalia and al-Shabaab, Mr. Hashi was arrested in Djibouti. On November 15, 2012, he was brought to the United States and on May 12, 2015, he pleaded guilty to conspiring to provide material support to a designated terrorist organization.

#### **Deprivation of British Citizenship**

Upon his release from prison, Mr. Hashi will not be permitted to return to England to rejoin his family and his plans to bring his wife and son there have been shattered.

On April 21, 2011, Mr. Hashi married Nasra Abdi in Somalia. This union produced Mr. Hashi’s son Marwan, who is now three-years-old. Mr. Hashi and his wife planned to move to England, where their son could grow up safely and receive a proper education. However, since losing his British citizenship, Mr. Hashi, unlike his co-defendants who will be returned to their homes in Sweden, will likely be deported to Somalia.<sup>9</sup>

He will be exiled to the country often described as the world’s most dangerous failed state and considered by the United States Department of State as “extremely dangerous.” **See Defendant’s Exhibit F, State Department Travel Warning.**

More importantly, upon deportation to Somalia, he will likely be detained by the Transitional Federal Government since he will be a convicted member of al-Shabaab. If he is not detained or if he is released by the TFG, he will likely be targeted by al-Shabaab, who suspected Mr. Hashi of being a spy just prior to his departure from Somalia in 2012. If his past goes unnoticed, al-Shabaab will be highly interested in a “Westernized” young man fluent in English, for purposes of recruitment in the Western world. Refusal to join a group such as al-Shabaab is not tolerated and buys one a swift execution. In sum, when deported, Mahdi will likely be

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<sup>9</sup> In *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335 (2005), the Supreme Court held that immigrants could still be deported to Somalia even without a recognized government in place.

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detained by Somalia's federal government, but even if released, he will be unable to avoid targeting by al-Shabaab, which still controls vast swaths of the country.

### **Conclusion**

Mahdi's experiences have molded and fashioned him into an individual who has a matured sense of self. He has found the identity that he sought so desperately and he has realized that he never needed a group like al-Shabaab. Mahdi has never harbored any animosity toward the United States and the West in general. He has realized that he was an immature young man, whose lack of sense of self and belonging led him down a dangerous path that could have ended in his death, just as easily as it resulted in his incarceration.

Mahdi's focus is now on his family - on his wife and son that remain in Somalia, a mother, father and siblings that he has not seen in three years, and on a nephew, who bears his name. He is acutely aware of the pain that he has inflicted on his family and he is deeply ashamed of the suffering that he has caused his wife and young son. Now that he fully understands the extent and potential repercussions of his wrongdoing, as well as the heavy toll his incarceration has taken on his family, he is deeply remorseful, and he will not repeat his offense.

Mr. Hashi's conduct since his arrest is further evidence of his desire to begin to atone for his crime; he has been a model prisoner, with no disciplinary problems in the three years he has been incarcerated.

Accordingly, we urge Your Honor to give effect to the statutory admonition embodied in § 3553(a) by imposing a non-guideline sentence, one substantially less than that recommended by the United States Probation and significantly less than the statutory maximum sentence of fifteen years imprisonment.

Respectfully Submitted,

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cc: All Counsel  
By ECF